

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

PACIRA PHARMACEUTICALS, INC., and
PACIRA BIOSCIENCES, INC.,

Plaintiffs,

v.

eVenus PHARMACEUTICALS
LABORATORIES, INC., JIANGSU
HENGRUI PHARMACEUTICALS CO.,
LTD., and FRESENIUS KABI USA, LLC,

Defendants.

Civil Action No. 2:21-cv-19829-MCA-JRA
Civil Action No. 2:22-cv-00718-MCA-JRA
(consolidated)

STIPULATION AND ORDER REGARDING E-DISCOVERY

The parties stipulate as follows:

1. This Stipulation and Order supplements all other applicable rules and orders regarding production of Electronically Stored Information (“ESI”). It streamlines ESI production to promote a “just, speedy, and inexpensive determination” of this action, as required by Federal Rule of Civil Procedure 1.

2. This Stipulation and Order may be modified for good cause. If the parties cannot resolve their disagreement regarding a proposed modification, the parties shall submit their competing proposals and a summary of their dispute.

3. General ESI production under Federal Rules of Civil Procedure 34 and 45 shall include the following metadata fields, to the extent such metadata exists:

For electronic documents (and scanned hardcopy documents where applicable):

- PRODBEG
- PRODEND
- PRODBEGATTACH

- PRODENDATTACH
- ATTACHRANGE
- FILENAME
- TEXTLINK

For email:

- | | |
|------------------|----------------------|
| • PRODBEG | • EMAIL RECEIVEDDATE |
| • PRODEND | • EMAIL RECEIVEDTIME |
| • PRODBEGATTACH | • FILESIZE |
| • PRODENDATTACH | • FILEEXTENSION |
| • ATTACHRANGE | • THREADID |
| • CUSTODIAN | • INTERNETMESSAGEID |
| • EMAIL TO | • MD5HASH |
| • EMAIL FROM | • CONFIDENTIALITY |
| • EMAIL CC | • REDACTED |
| • EMAIL SUBJECT | • TEXTLINK |
| • EMAIL SENTDATE | |
| • EMAIL SENTTIME | |

If information in a metadata field is properly the subject of redaction, the field shall include the word “Redacted.”

4. With respect to the production of email, the parties shall cooperate to identify the proper custodians, proper search terms and proper timeframe.

5. Also with respect to email, the parties agree that each shall propose a list of five (5) to ten (10) search terms to be used to search its email. The parties will then meet and confer, resulting in a final list of no more than ten (10) terms to be used. The parties may jointly agree to modify these limits in writing without the Court’s leave. The Court shall consider contested requests seeking up to five (5) additional search terms (reaching a maximum of fifteen (15) terms), upon a showing of distinct need based on the size, complexity, and issues of this specific case. The search terms proposed by either party shall be narrowly tailored to particular subject matter. Indiscriminate terms are inappropriate unless combined with narrowing search criteria that sufficiently reduce the risk of overproduction. A conjunctive combination of multiple words or

phrases (e.g., “computer” and “system”) narrows the search and shall count as a single search term. A disjunctive combination of multiple words or phrases (e.g., “computer” or “system”) broadens the search, and thus each word or phrase shall count as a separate search term unless they are variants of the same word. Use of narrowing search criteria (e.g., “and,” “but not,” “w/x”) is encouraged to limit the production and shall be considered when determining whether to seek to shift costs for disproportionate discovery. Should a party request search terms beyond the limits agreed to by the parties or granted by the Court pursuant to this paragraph, the requesting party shall bear all reasonable costs caused by such additional discovery collected or produced as a result.

6. The parties may remove duplicates prior to production, on a global basis, using the MD5Hash value. The party will provide a multiple custodian field identifying each custodian of the document.

7. A party may produce emails as the most-inclusive unique thread, so long as lesser-included emails and attachment(s) in the thread are contained within the final message. If a duplicate exists that is part of a family, the duplicate will only be removed if the entire family is removable as a duplicate.

8. The use of search terms will not preclude the parties’ use of other reasonable review tools, including, but not limited, analytics, predictive coding, or other technology assisted review.

9. The No Waiver of Privileges section of the parties’ Discovery Confidentiality Order shall apply. *See* D.I. 71 in Civil Action No. 21-cv-19829 (D.N.J.).

Dated: March 1, 2023

By: s/ Cynthia S. Betz

Jack E. Flaherty
Cynthia S. Betz
McCarter & English, LLP
Four Gateway Center
100 Mulberry St.
Newark, NJ 07102
Phone: (973) 622-4444
jflaherty@mccarter.com
cbetz@mccarter.com

Thomas P. Scrivo
O'Toole Scrivo, LLC
14 Village Park Road
Cedar Grove, NJ 07009
Phone: (973) 239-5700
tscrivo@oslaw.com

Of Counsel:
Shannon M. Bloodworth
Jonathan I. Tietz
Perkins Coie LLP
700 Thirteenth Street, N.W., Suite 800
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
SBloodworth@perkinscoie.com
JTietz@perkinscoie.com

David L. Anstaett
Autumn N. Nero
Emily J. Greb
Perkins Coie LLP
33 East Main Street, Suite 201
Madison, WI 53703-3095
Telephone: (608) 663-7460
DAnstaett@perkinscoie.com
ANero@perkinscoie.com
EGreb@perkinscoie.com

Bryan D. Beel
Perkins Coie LLP
1120 NW Couch St., Tenth Floor

By: s/ Eric I. Abraham

Eric I. Abraham
William Murtha
Hill Wallack LLP
21 Roszel Road
P.O. Box 5226
Princeton, NJ 08543
Phone: (609) 924-0808
eabraham@hillwallack.com
wmurtha@hillwallack.com

Of Counsel:
Daryl L. Wiesen
Kevin J. DeJong
Goodwin Procter LLP
100 Northern Avenue
Boston, MA 02210
Phone: (617) 5700-1000
dwiesen@goodwinlaw.com
kdejong@goodwinlaw.com

Alison Siedor
Shweta Kumar
Goodwin Procter LLP
1900 N. Street, N.W.
Washington, DC 20036
Phone: (202) 346-4000
asiedor@goodwinlaw.com
skumar@goodwinlaw.com

*Attorneys for Defendants eVenus
Pharmaceuticals Laboratories, Inc., Jiangsu
Hengrui Pharmaceuticals Co., Ltd. and
Fresenius Kabi USA, LLC*

Portland, OR 97209-4128
Telephone: (503) 727-2000
BBeel@perkinscoie.com

Courtney M. Prochnow
Perkins Coie LLP
633 West 5th Street, Suite 5850
Los Angeles, CA 90071
Telephone: (310) 788-3284
CProchnow@perkinscoie.com

Elise S. Edlin
Angela C. Griggs
Perkins Coie LLP
505 Howard Street, Suite 1000
San Francisco, CA 94105
Telephone: (415) 344-7000
EEdlin@perkinscoie.com
AGriggs@perkinscoie.com

*Attorneys for Plaintiffs Pacira
Pharmaceuticals, Inc., and Pacira
BioSciences, Inc.*

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: May 4, 2023

A handwritten signature in black ink, appearing to read "José R. Almonte", is written over a horizontal line.

HON. JOSÉ R. ALMONTE
United States Magistrate Judge